

AMENDED IN ASSEMBLY APRIL 9, 2007  
AMENDED IN ASSEMBLY MARCH 28, 2007  
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 494**

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**Introduced by Assembly Member Huffman**  
**(Principal coauthor: Assembly Member Garrick)**  
*(Coauthor: Assembly Member Lieu)*

February 20, 2007

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An act to amend Section 64001 of, and to add Section 33051.1 to, the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 494, as amended, Huffman. State Board of Education: waiver authority.

(1) Under existing law, the governing board of a school district or a county board of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, is authorized to request that the State Board of Education waive all or part of any section of the Education Code, or any regulation adopted by the board that implements a provision of that code, except as specified. The State Board is required to approve any and all requests for waivers except in those cases where the board makes specified findings. Existing law provides that if formal action by the State Board on a waiver request is not taken by the second regular meeting of the board following receipt of a complete and documented waiver request by the State Department of Education, the waiver is deemed approved for one year.

This bill would require the State Board to approve any and all waiver requests from a school district if the Academic Performance Index of the school district and at least 70% of the schools in the district meets or exceeds a score of 800 in each of the 3 prior years, *and the district does not show a decline in Academic Performance Index growth of 1% or more in the most recent year*. The bill would require the department to review and act on these waiver requests on an expedited basis, and with a minimum amount of documentation. The bill would state the intent of the Legislature that these waivers be approved for at least 3 years.

(2) Existing law requires a school district that elects to apply for certain state and federal categorical program funds to submit to the State Department of Education a single consolidated application for approval by the State Board of Education. Related onsite school and district compliance visits and reviews are conducted by the department.

This bill would require the department to notify a school district at least 60 days before the date that a review is scheduled to occur if the department intends to waive that review or extend the time before the next onsite review. If a school receives a positive review, the review is waived, or the time before the next review is extended, the bill would provide that the school is not subject to any further monitoring for at least 3 years. The bill would provide that a school with an Academic Performance Index score of 800 or more that receives a positive review is not subject to any further monitoring for at least 6 years.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.~~

2     SECTION 1. Section 33051.1 is added to the Education Code,  
3     to read:

4     33051.1. (a) The State Board shall approve any and all waiver  
5     requests from a school district if the Academic Performance Index  
6     of the school district and at least 70 percent of the schools in the  
7     district meets or exceeds 800 in each of the three prior years, *and*  
8     *if the district does not show a decline in Academic Performance*  
9     *Index growth of 1 percent or more in the most recent year*. For  
10    school districts that meet or exceed a score of 800 on the Academic  
11    Performance Index *and do not show a decline in Academic*

1 *Performance Index growth of 1 percent or more in the most recent*  
2 *year, but are so small that the 70 percent requirement is*  
3 *inappropriate, the Superintendent shall determine a comparable*  
4 *measure that considers the scores of pupils on tests that are used*  
5 *in determining a school's rank on the Academic Performance*  
6 *Index. The department shall expedite waiver requests to which*  
7 *this section applies, with minimum documentation being required*  
8 *of the requesting district. All of the requirements of Sections 33050*  
9 *and 33050.3 apply to a waiver request made pursuant to this*  
10 *section. A provision that may not be waived pursuant to Section*  
11 *33050 shall not be waived pursuant to this section. A school district*  
12 *shall provide the following:*

13 (1) A statement of the desired outcome, rationale, and  
14 explanation of the manner in which the requested flexibility is to  
15 be used by the district.

16 (2) A plan describing the manner in which the requesting district  
17 will meet the academic needs of its low performing pupils and  
18 subgroups.

19 (b) Notwithstanding subdivision (a), the State Board shall not  
20 deny a waiver request unless it makes written factual findings,  
21 specific to the request, setting forth specific facts to support one  
22 or more of the following findings:

23 (1) The waiver affects a program that requires the participation  
24 of the schoolsite council and the schoolsite council did not approve  
25 the request.

26 (2) The appropriate councils or advisory committees, including  
27 bilingual advisory committees, did not have an adequate  
28 opportunity to review the request and the request did not include  
29 a written summary of any objections to the request by the councils  
30 or advisory committees.

31 (3) Pupil or school personnel protections are jeopardized.

32 (4) Guarantees of parental involvement are jeopardized.

33 (5) The waiver substantially would increase state costs.

34 (6) The exclusive representative of employees, if any, as  
35 provided in Chapter 10.7 (commencing with Section 3540) of  
36 Division 4 of Title 1 of the Government Code, was not a participant  
37 in the development of the waiver.

38 (7) The waiver would be inconsistent with, or undermine, a  
39 court ordered settlement.

1 (c) It is the intent of the Legislature that waivers approved  
2 pursuant to this section be approved for at least ~~three~~-two years.  
3 Waiver renewals shall be governed by the same criteria as the  
4 initial waiver requests submitted pursuant to this section, but with  
5 an additional performance review to determine whether the pupil  
6 outcome and subgroup goals were met.

7 (d) Notwithstanding subdivision (g) of Section 60200 and  
8 subdivision (d) of Section 60421, a school district shall not use  
9 the waiver procedures and authority of this section to request a  
10 waiver that would allow it to use state instructional materials funds  
11 to purchase materials that are not adopted by the State Board  
12 pursuant to Section 60200.

13 ~~(e) If formal action by the State Board on a waiver request~~  
14 ~~pursuant to this section is not taken by the second regular meeting~~  
15 ~~of the board following receipt of a complete and documented~~  
16 ~~waiver request by the department, the waiver shall be deemed~~  
17 ~~approved.~~

18 SEC. 2. Section 64001 of the Education Code is amended to  
19 read:

20 64001. (a) (1) Notwithstanding any other provision of law,  
21 school districts shall not be required to submit to the department,  
22 as part of the consolidated application, school plans for categorical  
23 programs that are subject to this part. School districts shall assure,  
24 in the consolidated application, that the single plan for pupil  
25 achievement established pursuant to subdivision (d) has been  
26 prepared in accordance with law, that schoolsite councils have  
27 developed and approved a plan, to be known as the single plan for  
28 pupil achievement for schools participating in programs funded  
29 through the consolidated application process and any other school  
30 program they choose to include, and that school plans were  
31 developed with the review, certification, and advice of applicable  
32 school advisory committees. The single plan for pupil achievement  
33 may also be referred to as the single plan for student achievement.  
34 The consolidated application also shall include certifications by  
35 appropriate district advisory committees that the application was  
36 developed with review and advice of those committees.

37 (2) If a consolidated application does not include the necessary  
38 certifications or assurances, the department shall initiate an  
39 investigation to determine whether the consolidated application  
40 and single plan for pupil achievement were developed in

1 accordance with law and with the involvement of applicable  
2 advisory committees and schoolsite councils.

3 (b) (1) Onsite school and district compliance reviews of  
4 categorical programs shall continue, and school plans shall be  
5 required and reviewed as part of these onsite visits and compliance  
6 reviews. The Superintendent shall establish the process and  
7 frequency for conducting reviews of district achievement and  
8 compliance with state and federal categorical program  
9 requirements. In addition, the Superintendent shall establish the  
10 content of these instruments, including any criteria for  
11 differentiating these reviews based on the achievement of pupils,  
12 as demonstrated by the Academic Performance Index developed  
13 pursuant to Section 52052, and evidence of district compliance  
14 with state and federal law. The State Board shall review the content  
15 of these instruments for consistency with State Board policy.

16 (2) If the department intends, based on its review of a school's  
17 Academic Performance Index data and record of compliance, not  
18 to perform an onsite compliance review or extend the time before  
19 the next onsite review, the department shall notify the school  
20 district at least 60 days before the date that the eliminated or  
21 postponed review would otherwise occur. If a school receives a  
22 positive review, the review is waived, or the time before the next  
23 review is extended, the school shall not be subject to any further  
24 monitoring for at least three years. If a school with an Academic  
25 Performance Index score of 800 or more receives a positive review,  
26 it shall not be subject to any further monitoring for at least six  
27 years.

28 (c) (1) A school district shall submit school plans whenever  
29 the department requires the plans in order to effectively administer  
30 a categorical program subject to this part. The department may  
31 require submission of the school plan for a school that is the  
32 specific subject of a complaint involving a categorical program or  
33 service subject to this part.

34 (2) The department may require a school district to submit other  
35 data or information as may be necessary for the department to  
36 effectively administer a categorical program subject to this part.

37 (d) Notwithstanding any other provision of law, as a condition  
38 of receiving state funding for a categorical program pursuant to  
39 Section 64000, and instead of the information submission  
40 requirements that were required by this section prior to January 1,

1 2002, school districts shall ensure that each school in a district that  
2 operates categorical programs subject to this part consolidates the  
3 plans that are required by those programs into a single plan.  
4 Schools may consolidate plans that are required by federal  
5 programs subject to this part into this plan, unless otherwise  
6 prohibited by federal law. That plan shall be known as the single  
7 plan for pupil achievement or may be referred to as the single plan  
8 for student achievement.

9 (e) Plans developed pursuant to subdivision (d) of Section  
10 52054, and Section 6314 and following of Title 20 of the United  
11 States Code, shall satisfy this requirement.

12 (f) Notwithstanding any other provision of law, the content of  
13 a single plan for pupil achievement shall be aligned with school  
14 goals for improving pupil achievement. School goals shall be based  
15 upon an analysis of verifiable state data, including the Academic  
16 Performance Index developed pursuant to Section 52052 and the  
17 English language development test developed pursuant to Section  
18 60810, and may include data voluntarily developed by districts to  
19 measure pupil achievement. The single plan for pupil achievement,  
20 at a minimum, shall address how funds provided to the school  
21 through any of the sources identified in Section 64000 will be used  
22 to improve the academic performance of all pupils to the level of  
23 the performance goals, as established by the Academic Performance  
24 Index developed pursuant to Section 52052. The plan also shall  
25 identify the schools' means of evaluating progress toward  
26 accomplishing those goals and how state and federal law governing  
27 these programs will be implemented.

28 (g) The plan required by this section shall be reviewed annually  
29 and updated, including proposed expenditure of funds allocated  
30 to the school through the consolidated application, by the schoolsite  
31 council, or, if the school does not have a schoolsite council, by  
32 schoolwide advisory groups or school support groups that conform  
33 to the requirements of Section 52852. The plans shall be reviewed  
34 and approved by the governing board of the local education agency  
35 at a regularly scheduled meeting whenever there are material  
36 changes that affect the academic programs for pupils covered by  
37 programs identified in Section 64000.

38 (h) The school plan and subsequent revisions shall be reviewed  
39 and approved by the governing board of the school district. The  
40 governing board of the school district shall certify that, to the extent

1 allowable under federal law, plans developed for purposes of this  
2 section are consistent with district local improvement plans that  
3 are required as a condition of receiving federal funding.

4 (i) This section does not prevent a school district, at its  
5 discretion, from conducting an independent review pursuant to  
6 subdivision (c) of this section as it read on January 1, 2001.

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